

Recd 6/25/07
CLB

United States District Court

for

07. JUN 27 PM 2:18

Southern District of Ohio

Petition for Warrant or Summons for Offender Under SupervisionName of Offender: **Brian E Mooney**Case Number: **1:00CR00054**

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Name of Sentencing Judicial Officer: **The Honorable Herman J. Weber, United States Senior District Judge**Date of Original Sentence: **September 5, 2001**Original Offense: **Conspiracy to Possess with Intent to Distribute Methamphetamine in Excess of Five Grams and Marijuana, a class B felony, in violation of 21 U.S.C. 846 and 841 (a)(1) and (b)(1)(B)**Original Sentence: **77 month(s) prison, 48 month(s) supervised release, a \$2,000 fine and a \$100 special assessment.**Type of Supervision: **Term Of Supervised Release**Date Supervision Commenced: **July 18, 2006**Assistant U.S. Attorney: **Kenneth L. Parker**Defense Attorney: **A. Norman Aubin****PETITIONING THE COURT**

- To issue a warrant
- To issue an Order to Appear and Show Cause
- To grant an exception to revocation without a hearing.

Violation NumberNature of Noncompliance

#1

Condition #7: You shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.

On May 23, 2007, Mooney submitted a urine sample that tested positive for opiates and cocaine. Mooney has tested positive for illegal drugs four times since beginning his term of supervised release. In addition to his most recent positive urine sample Mooney tested positive for cocaine on August 14, 2006, and for amphetamines November 7, 2006 and November 13, 2006. In addition, he tested positive for alcohol on July 20, 2006.

On March 5, 2007, Your Honor signed a Request for Modifying the Conditions of Supervised Release to include the condition that Mooney would successfully complete 90 days home confinement as a result of a February 23, 2007 Driving Under the Influence Conviction, an October 12, 2006 Obstructing Justice Conviction and an October 2, 2006 Speeding conviction, all of which he also failed to notify the probation office of within 72 hours. On June 19, 2007, Mooney completed his 90-day period of home confinement with electronic monitoring.

On March 6, 2007, Your Honor signed a Request for Modifying the Conditions of Supervised Release to include the condition that Mooney would not consume alcohol during his term of supervised release.

On June 21, 2007, Mooney signed a Waiver of Hearing to Modify the Conditions of Supervised Release agreeing to successfully complete a 90 days in a residential re-entry center. Mooney is being given a window of time prior to entering the residential re-entry center to tend to his responsibilities for his minor children.

U.S. Probation Officer Recommendation:

The term of supervision should be

- Revoked.
- Extended for years, for a total term of years.
- Continued based upon the exception to revocation under 18 USC 3563(e) or 3583(d)
- The conditions of supervision should be modified as follows: **Mooney will successfully complete 90 days at a residential re-entry center, which will not commence until on or after July 9, 2007.**

I declare under penalty of perjury that

the foregoing is true and correct.

Executed on June 21, 2007

Approved,

by

Melissa Mutter

U.S. Probation Officer

John Cole

Supervising U.S. Probation Officer

Date: June 21, 2007

THE COURT ORDERS:

- No Action
- The Court finds that there is probable cause to believe the defendant has violated the conditions of his/her probation/supervised release and orders the Issuance of a Warrant for his/her arrest.
- The Issuance of an Order to Appear and Show Cause
- The Court finds the defendant can benefit from continued substance abuse treatment and grants an exception to revocation. The supervision term of the defendant is continued under all original terms and conditions.
- Other

Signature of Judicial Officer

6/26/07
Date

PROB 49

**UNITED STATES DISTRICT COURT
Southern District of Ohio**

**Waiver of Hearing to Modify Conditions
of Probation/Supervised Release or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel" I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the Court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing. I also understand I have the right to contact an attorney prior to signing this waiver.

I hereby knowingly and voluntarily waive my right to consult an attorney before signing this waiver and I knowingly and voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

Mooney will successfully complete 90 days in a residential re-entry center, which is not to commence until on, or after, July 9, 2007.

Witness: Melissa A. Mueller

U.S. Probation Officer

Signed:

Brian J. Mooney

Probationer or Supervised Releasee

June 21, 2007

DATE